

MAR 25 2016

JAMES M. KIM, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
Kennedy, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

MARY KNAPP-SAMET, JANE ANN  
MIDDLETON, KATHRYN BALLINGER,  
NORA BURNS, BARBARA RUSSELL,  
WINNIE HUANG and HEATHER  
GOSLINER, individually and on behalf of  
others similarly situated,

Plaintiffs,

v.

MARIN GENERAL HOSPITAL  
CORPORATION, a California corporation,  
SUTTER HEALTH CORPORATION, a  
California corporation and DOES 1 through  
50,

Defendants

**Case No. CV1400998**

**Hon. Roy O. Chernus**

**ORDER GRANTING PLAINTIFFS' MOTION  
FOR PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT, CERTIFICATION  
OF SETTLEMENT CLASS, AND APPROVING  
CLASS REPRESENTATIVES, CLASS  
COUNSEL, AND CLASS NOTICE**

**Hearing Date: March 23, 2016**

**Time: 1:30 p.m.**

**Place: Dept B**

1 A hearing was scheduled on March 23, 2016 for the unopposed motion by MARY  
2 KNAPP-SAMET, JANE ANN MIDDLETON, KATHRYN BALLINGER, NORA BURNS,  
3 BARBARA RUSSELL, WINNIE HUANG and HEATHER GOSLINER (collectively, the “Class  
4 Representatives”), for an order preliminarily approving a proposed settlement of the above-  
5 entitled putative class action. The undersigned having considered the Motion, Class Action  
6 Settlement Agreement (“Settlement”), the proposed Notice of Class Action Settlement (“Class  
7 Notice”), and the submissions of counsel,

8 **IT IS HEREBY ORDERED THAT:**

9 1. The Motion for Preliminary Approval of Class Action Settlement is GRANTED  
10 pursuant to California Rule of Court 3.769.

11 2. The Court finds on a preliminary basis that the settlement memorialized in the  
12 Stipulation falls within the range of reasonableness and, therefore, meets the requirements for  
13 preliminary approval.

14 3. The Court conditionally certifies for settlement purposes only a class of all persons  
15 who are or have been employed at Marin General Hospital by one or more Defendants as Nurse  
16 Case Managers (or “discharge nurses”) at any time from March 14, 2010 through March 1, 2016  
17 (the “Class”).

18 4. The Court appoints MARY KNAPP-SAMET, JANE ANN MIDDLETON,  
19 KATHRYN BALLINGER, NORA BURNS, BARBARA RUSSELL, WINNIE HUANG,  
20 HEATHER GOSLINER, SHARON REID and CHING REDMON as Class Representatives.

21 5. The Court appoints Jaret & Jaret Law/Law Offices of Arthur R. Siegel as Class  
22 Counsel.

23 6. The Court appoints Simpluris, Inc. as Settlement Administrator.

24 7. The Court finds that the manner and content of the Class Notice specified in the  
25 Stipulation on file herein shall provide the best practicable notice to the Class. The Class Notice,  
26 attached to this Order as Exhibit 1, is approved. The Settlement Administrator is ordered to mail  
27 the Class Notice to the Class Members as provided in the Settlement.

28 //

1           8.       The Court will conduct a Final Approval Hearing on July 27, 2016 at 1:30 p.m. to  
2 determine the overall fairness of the settlement. The Final Approval Hearing may be continued  
3 without further notice to Class Members. The Class Representatives and Class Counsel shall file  
4 their motion for approval of the settlement, on or before May 31, 2016.

5           9.       Any written objection to the settlement must be filed with the Court no later than  
6 the date forty-five (45) calendar days after the Class Notice is mailed to the Class Members by the  
7 Settlement Administrator. The objection must set forth, in clear and concise terms, the legal and  
8 factual arguments supporting the objection. Unless otherwise requested by the Court, Class  
9 Members shall not be entitled to speak at the fairness hearing unless they have submitted a timely  
10 written objection.

11           10.      Any Class Member who desires exclusion from the Class must timely mail the  
12 Request for Exclusion, in the manner described in the approved Notice, no later than forty-five  
13 (45) days after the Class Notice is mailed. All persons who properly execute and timely mail the  
14 Request for Exclusion shall not be bound by the Settlement and shall have no rights with respect  
15 to the Settlement.

16           11.      If the Settlement is approved at the fairness hearing, the Court shall enter a Final  
17 Order Approving the Settlement ("Final Order"). The Final Order shall be fully binding with  
18 respect to all Class Members who did not request exclusion in accordance with the terms of the  
19 Motion.

20           12.      In sum, the dates for performance are as follows:

21                   (a)      Defendants within 15 days after the Court grants Preliminary Approval will  
22 provide to the Settlement Administrator the name, employee ID number, last known address,  
23 telephone number, email address and work weeks within the Class Period each Class Member  
24 worked as a Nurse Case Manager (the "Class Member Information"), which information the  
25 Settlement Administrator will keep confidential except as to the extent the settlement provides for  
26 disclosure.

27                   (b)      The Settlement Administrator shall mail Class Notice to the Class  
28 Members as soon as practicable upon Preliminary Approval of the settlement, but no later than 15

Order Granting Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, Certification of  
Settlement Class, and Approving Class Representatives Class Counsel and Class Notice

1 days after receiving Class Member Information from Defendants.

2 (c) Objections to the settlement and Requests for Exclusion (opt outs) must be  
3 submitted and postmarked no later than the date forty-five (45) days after the Class Notice is  
4 mailed.

5 (d) The final fairness hearing is to be held on July 27, 2016, at 1:30 p.m.

6 13. In the event that the Final Order is not entered for any reason, then the Settlement,  
7 as well as the findings contained herein, shall be deemed null and void *ab initio*.

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DATED: March     , 2016 **MAR 25 2016**

**ROY O. CHERNUS**  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

Exhibit 1

**YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A CLASS ACTION SETTLEMENT  
FOR HAVING WORKED FOR MARIN GENERAL HOSPITAL IN CALIFORNIA AS A  
RESULT OF A CLASS ACTION LAWSUIT PENDING IN SUPERIOR COURT:**

*Mary Knapp-Samet, et al. v. Marin General Hospital Corporation; Sutter Health Corporation*

(Marin County Superior Court Case No. CIV 140-0998)

**YOU ARE NOT BEING SUED, AND THIS LAWSUIT IS NOT AGAINST YOU.**

**MARIN GENERAL HOSPITAL AND SUTTER HEALTH CORPORATION HAVE AGREED TO  
THIS SETTLEMENT.**

**YOUR RIGHTS MAY BE AFFECTED.**

**PLEASE READ THIS NOTICE IMMEDIATELY!**

**ATTENTION:** A judge has granted Preliminary Approval to a settlement of the above-captioned class-action lawsuit ("Action") against Marin General Hospital and Sutter Health Corporation. If you were employed at Marin General Hospital as a Nurse Case Manager (i.e. a discharge nurse) from March 14, 2010 to the current time, then you are a "Class Member" and may be eligible to receive money from the Settlement of the Action. If you worked at Marin General Hospital from March 14, 2010 through July 20, 2010, your employer was Sutter Health Corporation. Thereafter your employer was Marin General Hospital, a California public benefit corporation.

**PLEASE READ THIS NOTICE CAREFULLY.** This Notice relates to a Settlement of the Action. If you are a Class Member, it contains important information affecting your rights to participate in the Settlement as further described below. This Notice advises you of the terms of the Settlement and your rights and options under the Settlement.

A Settlement has been reached in this Class Action.

**These are the steps you may take in response, as explained in detail below:**

**You can do nothing and you will receive a monetary Settlement Award:** If you do nothing, you will be bound by the proposed Settlement terms and you will receive a monetary Settlement Award.

**You can exclude yourself from the Settlement:** If you do not want a monetary Settlement Award and do not want to be bound by the proposed Settlement terms, you may do so by making a timely written Request for Exclusion.

**You can object to the Settlement:** You may object to the proposed Settlement in writing. You may also appear at the Final Approval Hearing to state any objections.

**What is the proposed Settlement about?**

This Action was filed on March 14, 2014 against Marin General Hospital and Sutter Health Corporation ("Defendants"). The Action was filed by individuals designated as the "Class Representatives", including Mary Knapp-Samet, Jane Ann Middleton, Kathryn Ballinger, Nora Burns, Barbara Russell, Winnie Huang, and Heather Gosliner. In addition, two other individuals who pursued a separate lawsuit alleging the same claims have been included as "Class Representatives" in this action. They are Sharon Reid and Ching Redmon. In total there are 9 Class Representatives.

The Class Action Complaint alleges that the Defendants failed to properly pay overtime wages, failed to pay all wages upon separation of employment, failed to furnish and maintain timely and accurate wage statements, and in these ways engaged in unfair competition and also owe civil penalties to the extent that these other allegations also violated the Private Attorneys General Act of 2004 ("PAGA"). The Action was brought as a "putative" or "reputed" class-action lawsuit and sought damages, penalties, and restitution, as well as interest, attorney fees, and litigation costs.

The Action has been vigorously litigated since it was filed. Additionally, the parties participated in 2 mediations conducted by a professional mediator. At the conclusion of the mediations, the parties reached an agreement to settle the Action.

Under the proposed Settlement, Defendants agree to make payments to the Class Members who do not opt out of the Settlement. These payments will be based on the pro rata compensation earned by each Settlement Class Member during the Class Period compared to the total compensation earned by all Settlement Class Members during the Class Period. Out of the Maximum Payment Defendants agree to pay Class Representative Payments to the Class Representatives, payments to the California Labor Workforce Development Agency, and Class Counsel's attorney fees and costs up to the amounts described below, subject to Court approval. Defendants' total obligation under the proposed Settlement is \$850,000, comprised of \$750,000 from Marin General Hospital and \$100,000 from Sutter Health Corporation, to be paid in one payment. Defendants' full payroll tax obligations, as well as one half of the costs of settlement administration (up to \$7,500) will be paid separately and in addition to the Maximum Payment.

The proposed Settlement is not an admission of liability by Defendants. Throughout the case, Defendants have denied any liability or wrongdoing, or that any compensable injury arose out of any of the matters alleged in the Action.

Class Counsel believe that the proposed Settlement is in the best interests of the Class members. Further proceedings would be very expensive and take a long time. Also, no one can predict the precise outcome of the disputed issues in this case. Therefore, Class Counsel believe that the proposed Settlement is fair, reasonable, and adequate for the Class Members.

#### Summary of the proposed Settlement.

Defendants have agreed to pay \$850,000 in 1 payment ("Maximum Payment") to resolve all claims that were or could have been asserted in the Action and for your release of claims described below. If the Settlement is approved by the Court, the proposed Settlement will distribute money as follows:

"Net Settlement Amount" means the Gross Settlement Amount less the following amounts: (i) Enhancement payments to the Representative Claimants; (ii) the payment of attorney fees to Class Counsel, not to exceed one third (33.33%) of the Gross Settlement Amount; (iii) Class Counsel's litigation expenses not to exceed \$35,000; (iv) up to \$7,500 (half of the estimated cost) for the cost of the settlement administration, including the Claims Administrator's cost; and (v) the payment of \$7,500

(representing the State of California's share of the \$10,000 to settle claims pursuant to the California Private Attorney Generals Act – Cal. Labor Code §2698, et seq. – to the California Labor Workforce Development Agency. The remaining \$2,500 of this \$10,000 amount is the Settlement Class Members' share and will be included in the Net Settlement Amount.

**Fee and Expense Award to Class Counsel:** Upon approval by the Court, Defendants will pay attorney fees and out-of-pocket costs/expenses to Class Counsel, Law Offices of Jaret & Jaret and Law Offices of Arthur R. Siegel. The proposed Settlement permits Class Counsel to request up to 33.33% of the Gross Settlement Amount (\$283,050) as their fees for prosecuting this case and expenses estimated at \$35,000 for reimbursement of their out-of-pocket costs/expenses incurred in the Action. You are not personally responsible for any of the Class Counsel attorneys' fees or costs/expenses.

**Other Costs:** The Settlement provides for a total of \$67,500 in Enhancement Payments to the Class Representatives, which represents \$7,500 for each Class Representative. The proposed Settlement further provides for payment estimated to be \$7,500 to the Settlement Administrator, which is 50% of the estimated cost as Defendants have agreed to pay the other estimated half, or \$7,500, separate and apart from the Gross Settlement Amount. The Settlement also provides for payment of \$7,500 (representing the state of California's share of the \$10,000 to settle claims pursuant to the California Private Attorney General's Act under Labor Code §2698, et seq.) to the California Labor Workforce Development Agency. (The remaining \$2,500 of this \$10,000 is the Settlement Class Members' share and will be included in the net Settlement Amount.)

**Settlement Awards to Class Members:** To all Class Members who do not exclude themselves from the Settlement as described below ("Settlement Class Members"), The Claims Administrator will make payments according to the following formula from the Net Settlement Amount.

The Net Settlement Amount shall be allocated as follows: (a) 75% wages (Wage Fund); and (b) 25% waiting time penalties, other penalties and interest (Other Penalty and Interest Fund). The Claims Administrator shall distribute the Settlement Awards to the Settlement Class Members who do not opt out of the Settlement. The distribution of the Settlement shall be made within thirty (30) days of the Effective Date of the Settlement, and shall be based on the amount of the Net Settlement Amount available for distribution at that time.

The Claims Administrator will calculate an award for each Settlement Class Member as follows:

There are 3 categories of Class Members. This includes Nurse Case Managers who were classified as "exempt" until on or about June 1, 2013; Nurse Case Managers who were classified as "non-exempt" from June 1, 2013 to the present; and Nurse Case Managers who worked on a "per diem" basis.

All Class Members' Adjusted Compensable Workweeks, added together, represent the Class's "Aggregate Adjusted Compensable Workweeks." The Class Members' distribution dollars-per-week amount will be calculated by dividing the Net Settlement Amount by the Aggregate Adjusted Compensable Workweeks. The Settlement Administrator will then calculate the amount due to each Settlement Class Member by multiplying the appropriate dollars-per-week amount by the Class Member's individual Adjusted Compensable Workweeks.

Adjusted Compensable Workweeks is calculated in two steps:

First, Marin General will report the number of weeks during which a Class Member performed work as a Hospital employee during the Class Period, except that weeks during which the Class Member worked as an acknowledged non-exempt (i.e., hourly) employee shall be counted as one-tenth (1/10<sup>th</sup>) of a week.



This reduction is based on the small number of alleged violations of these employees' right to overtime pay as well as the difficulties of maintaining and substantiating such claims on a class basis. For purposes of this step, weeks during which the Class Member received only paid time off benefits (such as vacation or sick pay) or was, for the entire week, on an unpaid leave of absence, will not be counted.

Second, the number generated in step 1 will be multiplied by the employee's FTE status number (e.g., "1.0" for a full-time employee or "0.8" for a part-time employee assigned a 32-hour workweek). For purposes of this calculation, Class Members in "per diem" positions will be assigned an FTE status number of "0.1." If Class Members were assigned multiple FTE statuses during the Class Period, the Adjusted Compensable Workweeks will be calculated separately for each FTE status.

**Enhancement of Compensable Workweeks.** Prior to calculating Class Members' individual Settlement Shares, the number of Compensable Workweeks will be enhanced by 10% for each Class Member who experienced a termination of employment with the Hospital on or since April the last three years of the Class Period, in reflection of those Class Members' alleged claims for "willful" violations of their right to a complete and timely final paycheck (Labor Code § 203). After this calculation is performed, each Class Member will have a number of "Adjusted Compensable Workweeks" (which will be the number of Compensable Workweeks subject, where applicable, to the enhancement provided in this paragraph.

**Distribution Formula:** The Class Members' distribution dollars-per-week amount will be calculated by dividing the Net Settlement Amount by the Aggregate Adjusted Compensable Workweeks. The Settlement Administrator will then calculate the amount due to each Final Settlement Class Member by multiplying the appropriate dollars-per-week amount by that Class Member's individual Adjusted Compensable Workweeks.

Settlement Awards shall be subject to applicable withholding taxes, but Defendants' share of any applicable payroll taxes and any applicable employer payroll contributions shall be paid by Defendants separately from the Gross Settlement Amount.

**Resolution of Disputes:** If a Class Member wishes to dispute the number of Compensable Workweeks that has been calculated for him or her, the Class Member may so notify the Settlement Administrator and must produce supporting evidence to the Settlement Administrator for the dates the Class Member contends he or she worked as a Nurse Case Manager. Defendants will review their personnel and payroll records, and provide information to the Settlement Administrator in response to such disputed claims. Defendants' records will be presumed determinative, but the Settlement Administrator will evaluate the evidence submitted by the Class Member and make the decision as to how many Compensable Workweeks the Class Member is entitled. The Settlement Administrator shall also notify all counsel of the details of any such dispute, in order that they may submit their views regarding such dispute to the Settlement Administrator. The determination by the Settlement Administrator will be final, subject to final review by the Court, if necessary.

**Unclaimed Portion of Net Settlement Amount:** If a Class Member fails to cash the check for their Settlement Share within 150 days after it is mailed to the Class Member, all such checks shall be voided, and the unclaimed funds represented by the checks shall be forwarded, in the name of the Final Settlement Class Member, to the State of California, Controller – Unclaimed Property Division, for further handling on behalf of the Participating Class Member.

**What are my rights and options?**

1. **You can do nothing:** You can do nothing. If you do nothing, you will be bound by the proposed Settlement terms and you will receive a monetary Settlement Award.

*What claims am I releasing by participating in the Settlement?*

In exchange for the consideration undertaken by Defendants as a result of the proposed Settlement, the Settlement Class Members will expressly release, waive and discharge, and are deemed to have released, waived and discharged, all Settled Claims against all Released Parties. This includes releasing Defendants from any and all claims and causes of action asserted in the Class Action Complaint, all claims and causes of action arising out of, or in connection with the facts, claims and causes of action alleged in this Litigation, even if presently unknown or unasserted, and all claims and causes of action that could have been pled in this Litigation, based on the facts recited in the Class Action Complaint. The matters released include, but are not limited to, any claims or causes of action that could have been pled under tort, contract, state and federal wage-and-hour laws or other laws affecting working conditions, the California Labor Code, all applicable Welfare Commission Wage Orders (including Wage Order 10 – 2001), the California Business & Professions Code, or the Private Attorneys General Act, Labor Code section 2698, et seq.

“Released Parties” means Defendants and their past, present, or future officers, directors, shareholders, owners, partners, limited partners, assignees, entity owners, interest holders, employees, agents, principals, heirs, representatives, accountants, auditors, attorneys, consultants, insurers, their successors and predecessors in interest, subsidiaries, affiliates, parents, and their company-sponsored benefit programs, and all of their respective officers, directors, owners, employees, partners, limited partners, administrators, fiduciaries, trusts, and agents.

2. **You can exclude yourself from the Settlement:** If you do not want a monetary Settlement Award and do not want to be bound by any of the proposed Settlement’s terms, you must make a timely written Request for Exclusion. Your Request for Exclusion must contain your name, address, telephone number and last four digits of your Social Security Number, must be signed and dated by you, and must state the following:

“I wish to be excluded from the Settlement in the case of *Mary Knapp-Samet, et al. v. Marin General Hospital Corporation; Sutter Health Corporation* (Marin County Superior Court Case No. CIV 140-0998)”

Your Request for Exclusion must be mailed to the Settlement Administrator at the following address and must be postmarked within 45 days after the date of mailing of this Notice. You should not request exclusion if you wish to receive money from the Settlement.

Settlement Administrator Address:

Marin General Hospital/Sutter Health Settlement – EXCLUSION

c/o Simpluris Class Action Settlement Administration

3176 Pullman Street, Suite 123

Costa Mesa, CA 92626

3. You can object to the Settlement:

You may object to the proposed Settlement in writing. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense, provided you notify the Court of your intent to do so. All written objections, supporting papers and/or notices of intent to appear at the Final Approval Hearing must: (a) clearly identify the case name and number: *Mary Knapp-Samet, et al. v. Marin General Hospital Corporation; Sutter Health Corporation* (Marin County Superior Court Case No. CIV 140-0998), (b) be submitted to the Court either by mailing to: Clerk of Court, Superior Court of California, County of Marin, 3501 Civic Center Drive, San Rafael, CA 94903, or by filing in person at any location of the Superior Court, County of Marin that includes a facility for civil filings, (c) also be served on the law firms identified below by personal delivery, facsimile transmission, or mail, and (d) be filed or postmarked within 45 days after the date of mailing of this Notice.

You must serve copies of your written objection to the following attorneys:

ATTORNEYS FOR PLAINTIFFS:

Robert S. Jaret, Esq.

Arthur R. Siegel, Esq.

1016 Lincoln Ave.

San Rafael, CA 94901

Telephone: 415 - 455 - 1010

Facsimile: 415 - 455 - 1050

ATTORNEYS FOR MARIN GENERAL HOSPITAL:

David J. Reis, Esq.

Christopher T. Scanlan, Esq.

Arnold & Porter LLP

Three Embarcadero Center, 10<sup>th</sup> Floor

San Francisco, CA 94111

Telephone: 415 - 471 - 3100

Facsimile: 415 - 471 - 3400

ATTORNEYS FOR SUTTER HEALTH CORPORATION:

Alexander Hernaez, Esq.

Fox Rothschild LLP

345 California Street, Suite 2200

San Francisco, CA 94104

Telephone: 415 – 364 – 5566

Facsimile: 415 – 391 – 4436

*When is the next Court hearing?*

A Final Approval Hearing will be held before the Hon. Roy O. Chernus in Department “B” of the Superior Court of the State of California for the County of Marin, located at 3501 Civic Center Drive, San Rafael, CA 94903. Judge Chernus will be asked to approve the plan for distributing the Settlement Awards, Class Counsel’s Fee and Expense Award, the Enhancement Payments for the Class Representatives, and payment to the Settlement Administrator. A motion for final approval of these items will be filed with the Court and will be available for review. This hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing for your objections, if you have timely made them, to be considered.

*What if I need more information?*

For the precise terms and conditions of the Settlement, you should consult the detailed Agreement and the Preliminary Approval Order, which is also on file with the Court. The terms used in this Notice have the same meaning they are given in the Joint Stipulation and Settlement Agreement (“Agreement”) on file with the Court in this Action. If you have any questions, you can contact the Settlement Administrator at 321 – 223 – 5067. You can also contact Class Counsel listed above.

The pleadings and other records in this Litigation, including the Settlement Agreement, are listed on the Register of Actions online on the Marin County Superior Court website located at:

<http://apps.marincounty.org/BeaconRoa/BeaconROAView.aspx?cvl case intrnl no=179190>.

**PLEASE DO NOT TELEPHONE THE COURT OR DEFENDANT'S COUNSEL FOR  
INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS!**

Additional information and key documents relating to the Action and the Settlement can also be accessed free of charge at the following Internet site maintained by Plaintiffs' counsel:

[www.jaretlaw.com/maringeneralclassaction.html](http://www.jaretlaw.com/maringeneralclassaction.html)

**BY ORDER OF THE SUPERIOR COURT  
OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF MARIN**